

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4452 of 1984

WITH

SPECIAL CIVIL APPLICATION No 3174 of 1985

AND

SPECIAL CIVIL APPLICATION No 3175 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HOTEL RATRANI THRO PROPRIETOR KANJI VISHRAM PATEL

Versus

STATE OF GUJARAT & ANR.

Appearance:

(In all SCAs)

Mr. J.R. Nanavati for the petitioner

Mr. N.N. Pandya for the respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/08/96

ORAL JUDGMENT

As all these three matters arise out of same facts and grounds, they are being disposed off by this common order. Heard learned counsel for the parties.

2. The petitioner, in SCA No.4452/84, is running a hotel in the name of Hotel Ratrani, the petitioner in SCA No.3174/85 is running a video house and the petitioner in SCA No.3175/85 is also running a video house. The petitioners have obtained licences from respondent No.2, Collector concerned. One of the conditions of the licence granted to the petitioner is relevant for the purpose of deciding these writ petitions, which reads as under:

"1. The licensee shall not exhibit or permit to be exhibited in the video cinema:

(a) any film other than a film which has been certified by the Board of film Censors constituted under section 3 of the Cinematograph Act, 1952 (No.XXXVII of 1952), as suitable for unrestricted public exhibition or for public exhibition restricted to adults and which, when exhibited, displays the prescribed mark of the Board, and has not been altered or tampered with any since such mark was fixed thereto."

Under this condition, the petitioners could not have exhibited or permitted to be exhibited in the video cinema any film other than a film which has been certified by the Board of Film Censors constituted u/s.3 of the Cinematograph Act, 1952, as suitable for unrestricted public exhibition or for public exhibition restricted to adults and which, when exhibited, displays the prescribed mark of the Board, and has not been altered or tampered with any sign or such mark as fixed thereto.

3. The grievance of the petitioners is that they are showing video films, video cassettes of which are being taken by them either from video library or from open market. In case the condition as aforesaid mentioned in the licence granted to the petitioner is violated, then I fail to see any justification in the grievance made by the petitioners that the respondents No.2 and 3 could not have interfered in their business. The respondents No.2 and 3 are authorities to enforce law and in case any video film is found not having certification, as prescribed under the condition aforesaid, certainly they can interfere in the matter and go to the extent of prohibiting the petitioner from exhibiting those video films. This Court has made clear while granting interim relief that the respondents shall not interfere with the running of video house of the petitioners and shall not stop the petitioners from showing video films to the

public, provided the films are duly certified by Board of Film Censors. That is what exactly the condition requires. I do not find substance in these Special Civil Applications. However, it is made clear that if necessity arises, the respondents will be at liberty to verify the films by asking the petitioners to play the cassette. The interference in the exhibition of films will be there where the films do not contain necessary certificate given by the Board of Film Censors and when there is tampering etc. with the films and not otherwise.

4. In the result, these Special Civil Applications are disposed off with aforesaid observations. Rule is discharged subject to aforesaid observations. No order as to costs.

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(sunil)